

Under the Use Tax Act, a tax is imposed upon the privilege of using in this State tangible personal property purchased at retail from a retailer. See 86 Ill. Adm. Code 150.101 (This is a GIL).

April 16, 2001

Dear Xxxxx:

This letter is in response to your letter dated February 23, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

The AAA respectfully requests a ruling on any tax liability for retail grocers who donate day-old bread and bakery products to charitable organizations such as the Salvation Army or local food banks, etc.

Your response is greatly appreciated.

Under the Use Tax Act, persons who purchase tangible personal property and give it away in Illinois are making a taxable "use" of the donated property. 86 Ill. Adm. Code 150.101 states that under the Use Tax Act, a tax is imposed upon the privilege of using in this State tangible personal property purchased at retail from a retailer. "Use" is defined as the exercise by any person of any right or power over tangible personal property incident to the ownership of that property. If the use occurs in Illinois, Use Tax liability is incurred by the donor at the rate of 6.25% of the donor's cost price of the tangible personal property donated. Consequently, retailers purchasing bread for resale and later donating it to charitable organizations incur Use Tax liability on their cost price of the bread.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Shane McCreery

By:

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Enc.